

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: D-192770

DATE: October 16, 1978

MATTER OF: Dictaphone Corporation

**DIGEST:**

Protest received by GAO more than 10 working days after receipt by protester of initial adverse agency action is untimely filed and not for consideration on merits.

Dictaphone Corporation (Dictaphone) protests the award of a contract under invitation for bids (IFB) No. 549-8-78, issued by the Veterans Administration (VA) for the provision and installation of a centralized dictation system. Dictaphone alleges the awarded item does not meet the salient characteristic requirements of the specification.

Dictaphone initially raised the issue with the VA Hospital of Dallas, Texas, by letter of July 12, 1978. VA's response, dated July 14, 1978, denied the protest and stated VA's determination that the award was proper and the system to be furnished met the specifications as set forth by the solicitation. Dictaphone replied to this denial by letters dated July 19 and August 11, 1978, to the VA, Washington, D. C. Following the VA, Washington, D.C., denial of the protest on August 16, 1978, Dictaphone, by letter dated August 28, 1978, protested the matter to this Office.

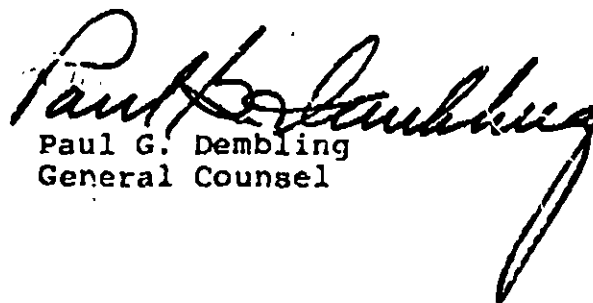
Section 20.2(a) of the Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1978), states in pertinent part:

"\* \* \* If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of \* \* \* initial adverse agency action will be considered \* \* \*."  
(Emphasis supplied.)

It is apparent that Dictaphone received the initial denial by July 19, 1978. Dictaphone's protest letter to this Office was more than 10 working days after that date. While the protester engaged in further correspondence with VA, the initial (and controlling) adverse agency action (the original denial) occurred on the date VA's letter of July 14, 1978, was received. See Maryland T Corporation, B-192247, July 19, 1978, 78-2 CPD 52.

We recognize that the VA Hospital of Dallas, Texas, instructed Dictaphone to file its appeal with the VA Central Office, Washington, D.C. However, in this connection, since the Bid Protest Procedures are published in the Federal Register (40 Fed. Reg. 17979, April 24, 1975), Dictaphone is considered to have been on constructive notice of their provisions, including the time constraints set forth for filing protests. See Washex Machinery Corporation, B-190726, March 22, 1978, 78-1 CPD 227, and decisions cited therein.

Accordingly, the protest is untimely filed and not for consideration on the merits.

  
Paul G. Dembling  
General Counsel